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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

JENNIFER P.,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Real Party in Interest.

B275563

(Los Angeles County
Super. Ct. No. DK07888)

PETITION for writ of mandate from orders of the Superior
Court of Los Angeles County, Nichelle L. Blackwell, Judge.
Petition denied.

Law Offices of Rachel R. Raymond and Rachel R. Raymond
for Petitioner.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, and Julia Roberson, Deputy County
Counsel, for Real Party in Interest.

Children's Law Center of Los Angeles (CLC1), Ronnie
Cheung and Ana Rak, for Minor.

INTRODUCTION

This writ petition requires the court to address when a parent's refusal or inability to comply with a home-of-parent order necessitates removing the child from the parent's home. Mother Jennifer P. seeks writ review of juvenile court orders (1) sustaining allegations under Welfare and Institutions Code¹ section 387 that her son, Jonas, was not safe in Mother's custody and (2) removing Jonas from her custody pursuant to section 361. We deny Mother's petition for a writ of mandate because substantial evidence regarding Mother's ongoing mental health problems and refusal to cooperate with the Los Angeles County Department of Children and Family Services (DCFS) and comply with the home-of-parent order supports the court's orders.

FACTS AND PROCEDURAL BACKGROUND

1. DCFS Involvement and Jurisdictional Findings

Mother has a long history of mental health problems, with diagnoses of depression, Narcissistic Personality Disorder,

¹ All subsequent statutory references are to the Welfare and Institutions Code.

Histrionic Personality Disorder, and Bipolar Disorder dating back to her teenage years. She was hospitalized over six times since she was 13 years old due to suicidal ideations and being a danger to herself and, on one occasion, a danger to others. Mother does not have custody of her three older children, largely due to her mental health problems.

Mother gave birth to Jonas in October 2013; his father is unknown. Mother and Jonas came to the attention of DCFS on October 13, 2014, after Mother was involuntarily hospitalized under section 5150 after expressing suicidal ideation while caring for Jonas. On October 16, 2014, DCFS filed a section 300 petition with the juvenile court, seeking to detain Jonas from Mother due to her unresolved mental health issues and previous dependency case involving those same issues. That day, the juvenile court detained Jonas from Mother and ordered monitored visitation for her. In the ensuing months, Mother was uncooperative with or hostile to social workers and Jonas's foster parents.

In January 2015, the juvenile court sustained jurisdiction under both section 300, subdivision (b) and (j) counts, which stated:

“b-1

The Child [Jonas’s] Mother . . . has a history of mental and emotional problems, including Depression and Suicidal Ideation, which renders [M]other incapable of providing regular care and supervision of the child. On 10/11/2014, [M]other was involuntarily hospitalized for the evaluation and treatment of [M]other’s psychiatric condition. On prior occasions, [M]other failed to take [M]other’s psychotropic medication as prescribed. The child’s sibling Ethan . . . received permanent placement services due to [M]other’s mental and emotional problems. [M]other’s mental and emotional condition endangers the child’s physical health and safety and places the child at risk of physical harm and damage.”

“j-1

The Child [Jonas’s] Mother . . . has a history of mental and emotional problems, including Depression and Suicidal Ideation, which renders [M]other incapable of providing regular care and supervision of the child. On 10/11/2014, [M]other was involuntarily hospitalized for the evaluation and treatment of [M]other’s psychiatric condition. On prior occasions, [M]other failed to take [M]other’s psychotropic medication as prescribed. [M]other has dependency court history in Kern County wherein the court sustained counts concerning the child’s half sibling, due to [M]other’s mental and emotional problems, including suicidal ideation. [M]other failed to comply with reunification services were terminated *[sic]*. The child’s sibling Ethan . . . received permanent placement services due to [M]other’s mental and emotional problems. [M]other’s mental and emotional condition endangers the child’s physical health and safety and places the child at risk of physical harm and damage.”

In March 2016, this Court affirmed jurisdiction, concluding that the court's finding was supported by substantial evidence.

In April 2015, the juvenile court addressed disposition and ordered Mother to complete a hands-on parenting course, a psychological assessment, a psychiatric evaluation, individual counseling, and to take all prescribed psychotropic medication. The court also ordered monitored visitation for Mother and gave DCFS discretion to liberalize visits. Mother engaged in therapy, visitation, and parenting classes.

2. Subsequent Reunification

In October 2015, the juvenile court granted Mother unmonitored day visits with Jonas at least three times a week or three hours per visit, as well as overnight weekend visitation with him. On December 16, 2015, the juvenile court ordered Jonas to be placed with Mother, under the supervision of DCFS and terminated the April 3, 2015 suitable placement order. The court conditioned the home-of-parent order² on Mother continuing in therapy and other case plan services, on Mother participating in family preservation services, and on DCFS making unannounced home calls.

² The home-of-parent order terminates previous suitable placement orders and returns the child to the parent's custody. The placement in the parent's home is often accompanied by conditions, like unannounced visitation and the parent continuing with aspects of the court-ordered case plan (e.g. drug testing, therapy, or classes) to ensure the child's safety.

3. Filing the Section 387 Petition and Removal from Mother's Custody

On December 22, 2015, a social worker performed an unannounced home visit at Mother's residence. When the social worker arrived, Mother's roommate Jamie informed the social worker that Mother and Jonas were sleeping. Jamie later explained that Mother told her not to let anyone from DCFS in the home. The social worker nonetheless convinced Jamie to allow her into the home, and the social worker discovered Mother and Jonas awake in their bedroom. Mother told the social worker that it was inappropriate for the social worker to be there and that Mother would inform her attorney. When interviewed later, roommate Jamie stated that Mother was not attentive to Jonas's needs, fed Jonas food lacking nutritional value like Doritos, cereal, and hot dogs when he was hungry, maintained a filthy living area with dirty diapers, and failed to change Jonas's diaper as often as needed. Jamie believed that Mother had given Jamie's daughter lice, as Mother constantly scratched her head.

On January 23, 2016, Mother begrudgingly signed a consent to release information form,³ although she wrote on the form that she was doing it "under duress & against HIPPA & constitutional rights." In an email to DCFS, Mother stated that she had "no choice but to allow [DCFS] to continue to violate [her] constitutional rights despite the fact that there is no current danger to the child," denied that there ever was a danger to Jonas, and accused DCFS of financially devastating her.

³ Requests were made since November 2015 for Mother to sign the form.

Mother made Jonas available for an unannounced home visit on January 29, 2016, and came to a DCFS office on February 8, 2016, seeking housing assistance because she was homeless. A social worker provided Mother with a family preservation services referral, a letter outlining the information provided to her, and a form to seek CalWorks, food stamps, and Medi-Cal through the Department of Social Services. Mother refused to sign the letter acknowledging her receipt of the documents.

On February 10, 2016, Mother emailed DCFS to indicate that she now resided in Lakewood, California. On February 17, 2016, Mother's new roommate reported that Mother appeared to be on drugs, Jonas had lice and head sores, Jonas was dirty, and Mother failed to regularly change Jonas's diaper, which leaked on the floor. The roommate stated that after moving into the apartment on February 7, 2016, Mother would not change Jonas's diaper for hours and often left him in dirty clothes. Mother and the roommate argued about Jonas's lice. After the roommate made the referral to DCFS, Mother retaliated by posting the roommate's phone number on the Facebook page where they met. People accessing that Facebook page then harassed and threatened the roommate via calls, texts, and Facebook messages.

Mother subsequently refused to allow DCFS to investigate the referral. The social worker spoke with Mother for over an hour on February 18, 2016, but Mother refused to consent to an investigation of the referral. Mother ultimately informed the social worker that she moved again and was residing with a person named Amy, who refused to allow DCFS to access her home. Mother said she would not drug test for DCFS and would not take Jonas for a medical HUB examination. Mother agreed

to bring Jonas to the DCFS office but then failed to show up. Mother admitted that Jonas had lice but asserted that the remaining allegations were all lies from disgruntled former roommates. Jonas' medical exam on February 22, 2016, also showed he had lice eggs on his head.

On February 19, 2016, DCFS obtained an expedited removal order from the court. That same day, DCFS sought to execute the removal order at the address it obtained for Amy's home, but Mother and Jonas were not there. The social worker called Mother again requesting her whereabouts so that DCFS could detain Jonas, but Mother refused to provide her location. On February 21, 2016, Mother emailed DCFS stating that she took Jonas to the Chatsworth DCFS office, where he was seen by a social worker unfamiliar with the case, and that she had also taken Jonas to Kaiser Permanente where a doctor found he had no lice. A letter from the doctor indicated that there were no lice on Jonas's head but did not address the presence of lice eggs.

On February 22, 2016, the social worker again called Mother and requested Mother to bring Jonas to DCFS; Mother refused. A different social worker then called and attempted to convince Mother to comply. Mother feigned ignorance, stated that she had not been contacted by DCFS and knew nothing about the removal order, and directed DCFS to speak to her lawyer before hanging up the phone.

On February 25, 2016, DCFS filed a section 387 petition seeking to remove Jonas from Mother's custody. Based on Mother's ongoing mental health issues, oppositional behavior toward DCFS, and failure to comply with court orders, DCFS recommended that Jonas be detained from her care and that she

be ordered to complete another Evidence Code section 730 evaluation.

On February 25, 2016, the court found that there was a prima facie case for detaining Jonas and showing that Jonas was a person described by section 300, subdivisions b and j. DCFS then returned Jonas to the previous foster caregiver's custody.

4. Difficulties with Mother's Therapy and Visitation

Following Jonas's detention, Mother was hostile and uncooperative during visitation and therapy, frequently asserting (without any apparent basis) that she felt threatened by visitation monitors, social workers, therapists, and the foster caregivers. Immediately after the detention, DCFS had difficulty engaging Mother for an interview because she insisted on having a non-identified third party present during her contacts with DCFS. When DCFS asked Mother about her desire to have a third party present, she responded in an email stating: "As I'm afraid of your agency I will always have a witness present as I have for all calls. [¶] I will no longer be taking calls from you as every time that a call happens your agency uses it as a vessel to harass me. [¶] I repeat: I'm afraid of you. Please I'm begging you to stop. [¶] Please cease and desist."

a. Therapy and Mental Health Issues

In March 2016, Mother's therapist, Chris Lawver, reported that Mother became inconsistent in attending bi-weekly therapy after Jonas was returned to her care in December. Because Mother's insurance stopped paying for her sessions, Lawver set up a \$30 co-pay arrangement with Mother but she nonetheless stopped showing up regularly or paying the co-pay in full. Mother averaged one therapy visit per week in January and February, despite the court-ordered two visits per week

minimum. Lawver was concerned about Mother's homelessness and housing instability, stating that he had provided her a number of referrals for low-income housing. He opined that Mother's homelessness, including her struggles with roommates, was very similar to events that occurred at the inception of this dependency case. Since her housing became more unstable, Mother's "functioning has unraveled [*sic*], from its [*sic*] baseline just a few months prior."

Mother appeared to have an "underdeveloped personality; as she present[ed] with strong Borderline personality traits and also, strong paranoid, suspicious, and some narcissistic traits." Lawver stated that Mother did "experience[] [a]nxiety and [d]epression, though [did] not appear to have SMI (serious mental illness), such as schizophrenia or bipolar illness or another major mental health condition." He stated that the best thing for Jonas would be for him to remain in foster care because Mother was not stable on any level, neither with housing or her services. Lawver wrote in a letter to DCFS that Mother lacked "insight and judgment" regarding her relationship with DCFS, and that she felt "very suspect and attacked by DCFS." Lawver observed that although Mother did not plan to harm anyone, Mother "often believe[d] she [was] being persecuted and that her basic civil and HIPPA rights [were] being taken advantage of by others and especially by DCFS."

In the spring of 2016, Mother stated that she felt threatened by Lawver, and sought treatment with her former therapist, Lisa Hills, between late March and early May 2016. Hills reported to DCFS that Mother had major depression and anxiety with some indication of borderline and narcissistic personality traits. During an April session, Hills noted that

Mother had passive suicidal ideation, but for the most part, Mother did not present as suicidal at sessions. Although Mother asked Hills to write a letter stating that Mother was a “fit mother,” Hills declined to do so because she had not performed a formal psychological evaluation of Mother, such a determination was beyond her expertise, and it was not possible to obtain information regarding Mother’s parental fitness because Mother spent sessions “railing against the perceived mistreatment by DCFS.” Hills ended Mother’s treatment because she did not believe she could provide Mother the services Mother required. Mother then returned to Lawver’s care, saying “it wasn’t working out” with Hills.

Lawver treated Mother again in late May 2016 and reported that they created a very basic treatment plan requiring Mother to (1) obtain stable housing, (2) allow Lawver to speak to Mother’s attorney, (3) attend an Al-Anon meeting for issues related to her boyfriend, and (4) discontinue services with her former therapist. Mother had difficulty following through with obtaining housing and attending an Al-Anon meeting. At this time, Mother exhibited increasing borderline and paranoia issues. Mother became very angry anytime Lawver tried to present Mother with a different point of view from her own. Lawver indicated she had started to devalue his treatment of her and was continually revoking the release allowing him to speak to DCFS.

b. Visitation Issues

Mother’s unaddressed mental health issues led to frequent conflicts during visitation with Jonas. Mother had difficulty complying with the visitation guideline of not speaking about the dependency case and the monitors often admonished Mother,

with one visit in March ending early. During that particular visit, Mother became very upset when she encountered the foster parent dropping Jonas off at the visitation location. At one point, Mother said the caregiver ruined the visit and that she did not want to visit with Jonas. Mother also repeatedly talked about the dependency case, despite the monitor telling her to desist.

As in that visit, Mother often had difficulty focusing on Jonas during visitation. The visitation monitors observed that Mother's behavior during visits was inconsistent: sometimes she would be calm and focused on Jonas, and other times, she would become upset and display paranoid, agitated and anxious behavior, without the ability to calm down. The latter occurred about every other week or once a week with Mother asserting that she felt threatened by the social workers and felt unsafe. Social workers had to usher Mother out of their office on April 13, 2016, after a one-hour meeting with her in which she claimed to feel threatened by various members of Jonas' treatment team.

During another visit, she told the particular monitor that she felt threatened by her and would not enter the visitation room when the monitor was there. Instead, Mother spoke to Jonas through the door, saying " 'Do you want me to stay?' " and asking " '[D]o you want to play with me, or should I just go home[?]' " At another time, when a visitation monitor and social worker spoke to Mother, Mother asked " 'Is this conversation being recorded?' " and in a paranoid manner looked around the room as if someone was eavesdropping. Claiming she was afraid of certain people, Mother also sought to change social workers and visitation monitors during this time. In contrast to Mother's demeanor in 2015, Mother's behavior became erratic and unmanageable in 2016.

In addition, Mother was repeatedly hostile to the foster caregiver, asserting she felt unsafe and threatened by her. During one visit when Mother observed the caregiver leaving the restroom after dropping Jonas off for a visit, Mother screamed and fled the building. Mother then asked the monitor, who was present and witnessed the encounter, if she was going to report the caregiver's threatening behavior. The monitor indicated that the caregiver's behavior was not threatening.

At various times, Mother often made negative comments or threatened the caregiver, including telling the caregiver that Mother had obtained the caregiver's address from Jonas's medical paperwork. At another time, staff working on Mother's case had to hang up the phone on Mother when Mother began crying hysterically, yelling about the caregiver being present for visitation drop-offs, and saying that she was going to call the police because she felt threatened by the caregiver. DCFS made efforts to ensure Mother did not encounter the caregiver during visits because Mother's behavior devolved.

In violation of visitation rules, Mother communicated her feelings about the foster caregiver to Jonas during visitation. In response to Jonas throwing a tantrum when he first saw Mother and a social worker at the beginning of a visit, Mother asserted that the caregiver was brainwashing Jonas and that she felt unsafe around the caregiver. While Jonas continued the tantrum, Mother said to him, " 'Oh Jonas, I know that woman [the caregiver] is brainwashing you. She is not your mommy, I am.' "

c. Unstable Housing

Throughout 2016, Mother's living situation remained unstable. Beginning in February 2016 Mother couch-surfed or

slept in her car. On May 25, 2016, a week before the section 387 hearing, she began living at Collette's Children's Home in Placentia, California. Within days, Mother expressed discomfort with this residence due to the religious emphasis of the home. Mother had a meeting on May 26, 2016 to locate another housing situation.

5. The Court Sustained the Section 387 Petition

On June 2, 2016, the juvenile court heard evidence and argument regarding the section 387 petition. The court received into evidence the detention report, the jurisdiction and disposition report, DCFS's interim review reports (with text messages, emails and photographs), Mother's records of Jonas's care at Kaiser, letters from both therapists, and a summary of Mother's visits. Mother and a social worker who worked closely on Mother's case testified at the hearing.

The court sustained the section 387 petition as pled:

“[Mother] has failed to cooperate with DCFS efforts to provide supervision of the child. [Mother] has failed to inform DCFS of the whereabouts of [Mother] and the child and of changes in the child's residence. [Mother] has failed to cooperate with DCFS efforts to conduct visits to ensure the child's safety. On 2/17/16, [M]other refused to allow an investigating Children's Social Worker to access the child in response to an immediate child abuse referral. [M]other refused to take the child to the Medical HUB for an examination requested by the Children[s] Social Worker in response to the child abuse referral. [M]other has failed to cooperate with DCFS efforts to obtain Family Preservation Services for the family. Such conduct by [M]other endangers the child's physical health and safety and places the

child at risk of serious physical harm, damage and danger.”

The juvenile court stated Mother failed to comply with the three conditions upon which Jonas was released to her care in December 2015. Mother’s unwillingness to allow a social worker to access her home and Mother’s difficulty and delay in pursuing family preservation services violated court orders. The court was particularly concerned about Mother’s inconsistent participation in therapy since Jonas’s return, because Mother appeared to be “unhinged” and “unraveling” with Jonas in her custody. The court acknowledged Mother had found new housing just a week before the hearing but noted that Mother already had an issue with the residence and sought to leave it. The court also opined that Mother demonstrated an inability to parent Jonas based on the lice, filthy living conditions, dirty diapers, and inadequate food.

The court found Mother was no longer entitled to reunification services because more than 18 months passed since Jonas was originally removed from her custody. Citing *In re A.K.* (2016) 246 Cal.App.4th 281, the court also found that Mother disentitled herself to additional reunification services by “thwarting every effort of the department to assist her and to help her remain [reunified] with her son.” The court explained that “[Mother] has at every turn attempted to control this process. She has attempted to change social workers, change visitation monitors. She has created an aura of fear, which is baseless and unreasonable, citing the department being the big bullies and her being fearful of them. Citing the caretaker as being a big bully and her being fearful of her, without any justification or reason. She’s thwarted that process in order to

get things her way. [¶] And it appears that this is the narcissistic behavior trait that the therapist has already cited that is creating and causing this problem.” The court removed Jonas from Mother’s care and set a permanency planning hearing for September 29, 2016.

DISCUSSION

Mother petitions for review of both the court’s order sustaining the section 387 petition and the order removing Jonas. DCFS opposes Mother’s petition, and counsel for Jonas joins DCFS’s argument.

1. Substantial Evidence Supported the Court’s Order Sustaining the Section 387 Petition

Mother argues that the court erred in sustaining the section 387 petition, asserting that “the evidence was insufficient to support a conclusion that the prior disposition order was ineffective to protect the minors.”

When DCFS seeks to change the placement of a dependent child to a more restrictive level of placement it must file a supplemental petition under section 387. The section 387 petition “shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the child.” (§ 387, subd. (b).) The Agency has the burden to show by a preponderance of the evidence that the factual allegations of the petition are true. If the court finds the allegations true, it must then determine whether the previous disposition is no longer effective in protecting the child. (*In re Miguel E.* (2004) 120 Cal.App.4th 521, 542; *In re A.O.* (2004) 120 Cal.App.4th 1054, 1059; Cal. Rules of Court, rule 5.560(c).)

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036–1037.) “[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ‘. . . view the record in the light most favorable to the orders of the juvenile court.’” (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Here, ample evidence supports the court's finding that the home-of-parent order could not properly protect Jonas because Mother failed to cooperate with DCFS and inhibited DCFS from supervising, accessing, and evaluating Jonas. It is well established that Mother has significant mental health problems, i.e. anxiety, depression, and underdeveloped personality with borderline, paranoid, and narcissistic personality traits, that jeopardize Jonas's health and wellbeing while in her care. Mother previously was suicidal while taking care of Jonas, and historically has been unable to focus on Jonas, who at this tender age, needs constant attention. Although no longer suicidal, Mother's mental health problems appeared to worsen following the home-of-parent placement of Jonas. With Jonas in her care, Mother's “functioning has unraveled [*sic*], from it's [*sic*] baseline just a few months prior.” Accounts from former roommates sharing a home with Mother while Jonas was in her care demonstrated that Mother was neglectful of Jonas. Roommates reported Jonas to be filthy, living in dirty diapers, poorly fed, infested with lice, and inadequately attended.

Due to Mother's significant mental health problems, the court appropriately conditioned the December 2015 home-of-parent order on DCFS making unannounced house visits, on Mother continuing with therapy and case plan services, and Mother participating in family preservation services. The unannounced visits were particularly essential to ensure Jonas's safety, as they gave DCFS an opportunity to examine Jonas's well being and living conditions without Mother having the ability to prepare for such a visit. Mother intentionally thwarted DCFS's ability to access Jonas for these unannounced visits. She instructed her roommate not to let social workers into the home. When she moved, Mother withheld her address from DCFS so that social workers could not locate Jonas. Mother failed to show up at a DCFS appointment despite her assertions that she would be there with Jonas. She refused to bring Jonas to a medical HUB examination. Mother also refused to cooperate in DCFS's investigation into allegations of child neglect made by Mother's roommate. On top of all of this, Mother failed to consistently participate in court-ordered biweekly therapy, which was critical to addressing her mental health issues.

In sum, Mother actively thwarted DCFS's efforts to protect and supervise Jonas while in Mother's care. Substantial evidence clearly supported the court's determination that the previous home-of-parent order was ineffective in protecting Jonas. Therefore, the court properly sustained the section 387 petition.

Mother likens her case to *In re Janet T.* (2001) 93 Cal.App.4th 377 (*Janet T.*), arguing that DCFS "did not identify how the previous disposition was ineffective other than Mother failed to cooperate and allow access to the minor, which is clearly refuted by the [social worker]'s own testimony and statements in

the [service logs].” We note that Mother provides no citation to the record to support her argument that Mother cooperated and gave DCFS access to Jonas. (See *Fox v. Erickson* (1950) 99 Cal.App.2d 740, 742 [“Appellate courts will not act as counsel for either party to an appeal and will not assume the task of initiating and prosecuting a search of the record for the purpose of discovering errors not pointed out in the briefs. It is the duty of counsel to refer the reviewing court to the portion of the record to which he objects and to show that the appellant was prejudiced thereby.”].) In reviewing the testimony and record, we conclude that the evidence does in fact support the conclusion that Mother was uncooperative, thwarted DCFS’s efforts to assist her, and prevented DCFS from accessing Jonas.

In addition, the present case is nothing like *Janet T.*, where the Court of Appeal reversed the juvenile court’s judgment finding jurisdiction and sustaining section 300 allegations that the children were subject to physical injury or illness based on the mother’s mental illness and failure to ensure the children’s school attendance. The Court of Appeal explained there were no facts to suggest the mother’s mental health problems created a substantial risk that her children would suffer serious physical injury or illness. (*Janet T.*, *supra*, 93 Cal.App.4th at p. 389.) Here, there is ample evidence that Mother’s mental health problems impacted her care of Jonas and his safety. Her suicidal behavior brought Jonas under the court’s jurisdiction in the first place. In a span of six weeks from December 2015 to February 2016, Jonas experienced dirty, leaky diapers, poor nutrition, filthy living conditions, and lice while DCFS tried unsuccessfully to access to him. DCFS needed access to ensure Jonas’s

continued safety. *Janet T.* is factually inapposite to the case before us.⁴

Based on the foregoing, we find that the section 387 petition was supported by substantial evidence.

2. Substantial Evidence Supports the Court's Dispositional Order Removing Jonas from Mother's Custody

Mother argues that the court erred when it removed Jonas from her care in rendering its dispositional order. Mother asserts that she “was demonstrating subtle, but significant changes, to satisfy the court and [DCFS], that she loved her son and was willing to prove just how much.”

Under section 361, subdivision (c)(1) children may not be removed from their parent's home “unless the juvenile court finds clear and convincing evidence” of a “substantial danger to the physical health, safety, protection, or physical or emotional well-

⁴ *Janet T.* is inapt for more than one reason. As Mother notes, *Janet T.* addresses judgment on a section 300 petition, not a section 387 petition like the one at issue in the present case. The function of section 300 “is to identify those children over whom the juvenile court may exercise its jurisdiction and adjudge dependents.” (*In re Joel H.* (1993) 19 Cal.App.4th 1185, 1200.) “[W]hen, as in the present case, there is a supplemental petition, there already exists a basis for juvenile court jurisdiction. The law does not require that a fact necessary to establish jurisdiction under section 300 be established to warrant a change in placement.” (*Ibid.*) “The only fact necessary to modify a previous placement is that the previous disposition has not been effective in protecting the child.” (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1161.) As such, *Janet T.*'s analysis involves a different standard and thus is not on point.

being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody." "A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent." (*In re T.W.*, *supra*, 214 Cal.App.4th at p. 1163.) Upon satisfying these prongs, the removal is appropriate even if the parent is not dangerous and the minor at issue has not yet been harmed. (*Ibid.*) "The focus of the statute is on averting harm to the child." (*Ibid.*)

As explained above, Mother had an extensive history of mental health problems that dramatically worsened when Jonas was returned to Mother's care. Her mental health was "unraveling" according to her therapist, and Mother was not consistently attending to therapy as required by the court. As soon as Jonas was in Mother's custody, DCFS could not access Jonas as needed to ensure his safety. During this time, Mother kept Jonas in squalid conditions, with Jonas suffering from lice and inadequate care. Mother failed to timely change Jonas's diapers, and would give him Doritos when he was hungry so she could resume her own activities on the computer. Following Jonas's second detention in February 2016, DCFS encountered more problems with Mother. Visitation monitors documented on numerous occasions Mother's paranoia, agitation, hostility, and inability to focus on Jonas during visits. As noted by the court, Mother made considerable efforts to thwart DCFS's ability to assist her and protect Jonas.

Mother's mental health problems significantly impaired her ability to provide proper care for Jonas. As Mother would not

cooperate with DCFS and allow them to assist her, Jonas would very likely continue to suffer detriment in Mother's care. She did not comply with the conditions upon which she originally regained custody of Jonas with the home-of-parent order: to wit, that she allow DCFS access to Jonas through unannounced visits, she continue to participate in her own therapy and participate in family preservation services. Her unwillingness to obey the terms of the custody order, whether or not intentional, put Jonas at risk, as her mental status "unraveled." Even though Jonas had not yet suffered physical injury, the court need not wait for tragedy to occur before protecting Jonas. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 918 ["[A] child does not need to be harmed before being removed from his parents' custody. One of the goals of dependency is to protect a child before the harm takes place."].)

Mother argues that the court failed to consider less drastic alternatives than removal, like having mother live with a non-related extended family member or ordering an additional psychological evaluation. But these are not realistic solutions given Mother's consistent resistance and hostility toward DCFS and failure to follow court orders. Mother frequently manipulated social workers, monitors, foster caregivers, and therapists throughout this case. By February 2016, it became clear that she would not cooperate with DCFS and the court. Her behavior did not appear to improve since that time. The court thus had good reason to remove Jonas from Mother's custody.

In re Matthew S. (1996) 41 Cal.App.4th 1311, on which Mother relies, also does not compel a contrary result. There, the mother suffered from delusions, including that her 13-year-old son's penis was mutilated and that she had murdered his treating physician. (*Id.* at p. 1314.) Acting on the delusions, the

mother took the son to a urologist, who found no evidence of injury. (*Ibid.*) The reviewing court reversed the juvenile court's jurisdictional finding pursuant to section 300, subdivision (b). (*Id.* at pp. 1318–1319.) The court explained: “Aside from going to the urologist to make sure her son was not harmed after she had a delusion, she is an excellent mother. . . . She has a well-kept home, provides meals to her children and has consistently obtained medical treatment for the children. Her children are healthy, well groomed and attractive. She has voluntarily participated in extensive therapy for herself over the years, too.” (*Id.* at p. 1319.) Mother argues that “if the mother in *In re Matthew S.* was deemed to be a proper candidate to receive Family Maintenance services vis-a-vis therapy, information sessions, and strict supervision by DCFS, then it only seems appropriate that she too should have had such less restrictive alternatives in place in her case.”

We disagree. Again, Mother cites a case reversing section 300 jurisdictional findings of substantial risk of serious physical harm. As explained above, we are solely looking for substantial evidence of potential detriment to the minor if he or she remains with the parent. This standard has clearly been satisfied in this case based on Mother's initial suicidal behavior, subsequent neglect of Jonas, and refusal to maintain the level of therapy she needed to remain mentally stable.

Based on the foregoing we conclude the court's dispositional order removing Jonas from Mother's custody was supported by substantial evidence.⁵

⁵ We note that in the conclusion of Mother's writ petition Mother asks this court to reverse the juvenile court's ruling denying her reunification services. At the end of the petition,

DISPOSITION

Mother Jennifer P.'s petition for a writ of mandate is denied.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

STRATTON, J.*

We concur:

EDMON, P. J.

ALDRICH, J.

Mother declares the court erred when it denied her a “contested hearing.” Yet, Mother does not brief these issues. As such, she has forfeited them on appeal. (*In re Sade C.* (1996) 13 Cal.4th 952, 994 [The court’s order is assumed correct absent a party showing reversible error with argument and authority.])

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.